

Remarks/Arguments:

Applicants wish to thank Primary Examiner Yong S. Chong, for consideration rendered during a telephone interview with applicants' undersigned representative on 18 August 2008. During this interview, examiner Chong kindly informed the undersigned that a forthcoming office action mistakenly contains obviousness-type double patenting rejections over U.S. Patents 6,455,514 and 6,696,429 and, as set forth in the corresponding official Interview Summary: "Applicant can disregard these rejections. Examiner will officially withdraw these rejections in the next Office Action."

Applicants also wish to thank Examiner Chong for consideration rendered during the interview conducted at the PTO on or about 26 August 2008, the participants being Examiner Chong, applicants' undersigned representative and co-inventor Dominique Thibaud. Matters discussed during the interview included the claim limitation "caused by osteoarthritis" and possible amendments to the claims, such as "whether to further define the patent population as suffering from osteoarthritis" (official Interview Summary dated 26 August 2008).

Additionally, applicants wish to thank Supervisory Patent Examiner (SPE) Sreenivasan Padmanabham, for the courteous consideration rendered applicants' undersigned representative during telephone conferences on or about June 12, 2008, August 26, 2008, and September 11, 2008. The telephone discussions with the SPE involved, *i.e.*, transfer of examination responsibilities to the current examiner.

Claims 12-21 are pending.

Claims 1-11 were cancelled without prejudice or disclaimer.

Pending claims 12 and 21 are currently amended. Claim 12 is amended by rewriting the preamble and immediately following text "Process for treating lameness caused by osteoarthritis, in a non-human animal suffering from osteoarthritis and not suffering from fractures, comprising the administration, to ~~a~~ the non-human animal ~~not suffering from fractures~~."

Claim 15 is amended as explained below, in the context of the § 112, ¶ 2, rejection.

Claim 21 is amended in a manner similar to claim 12. Specifically, claim 21 is amended by rewriting the preamble and immediately following text: "Process for treating lameness caused by osteoarthritis, in a horse suffering from osteoarthritis and not suffering from fractures, comprising the administration to ~~a~~ the horse ~~not suffering from fractures~~."

The Office Action contains an objection to claim 15. The objection is overcome by deleting the "extra slash mark," as indicated in the objection itself. Withdrawal of the objection appears to be in order.

The Office Action mistakenly contains double patenting rejections over two U.S. patents (US 6,455,514 and US 6,696,429). As kindly explained by the examiner during the interview, and confirmed in the official Interview Summary dated 18 August 2008, the double patenting rejections over the two patents were inadvertently made in the Office Action and, therefore, could be disregarded. According to the examiner these double patenting rejections will be officially withdrawn in the next Office Action.

Claims 12-21 were rejected rejection for alleged obviousness, under 35 USC 103(a), over U.S. 5,488,041 (Barbier), of record, in view of U.S. 3,637,641 (Huber), newly cited. Reconsideration is requested, in view of the changes to the claims effected hereby.

As a result of the aforesaid interview, applicants understand that amending the rejected claims to expressly recite that the animal to be treated is "suffering from osteoarthritis"—as kindly suggested by the examiner during the interview—will overcome the obviousness rejection. As set forth in the corresponding official Interview Summary dated August 26, 2008 (mentioned above), "Applicant is contemplating whether to further define the patient population as suffering from osteoarthritis."

In view of the foregoing, withdrawal of the rejection under § 103(a) appears to be in order.

Claims 12-21 were rejected for alleged obviousness-type double patenting over copending U.S. patent application no. 11/406,296. Reconsideration is requested.

The subject application is the earlier filed application with respect to the copending application relied on in the obviousness-type double patenting (ODP) rejection; and, the ODP rejection is the only rejection remaining in the earlier filed, subject application (the § 103 rejection being overcome). Moreover, the later filed, copending application relied on in the ODP rejection is rejectable on other grounds.

Accordingly, since the ODP rejection is the only rejection remaining in the subject application, which is the earlier filed application with respect to the copending application relied on in the ODP rejection, while the later filed, copending application relied on is rejectable on other

grounds, the examiner should withdrawal the ODP rejection against the present claims. MPEP 804(I)(B)(1).

For the forgoing reasons, the ODP rejection is overcome. Withdrawal of the ODP rejection appears to be in order.

There being no unresolved issues of record remaining, the subject application appears to be in form for immediate allowance.

Favorable action is requested.

Respectfully submitted,

s/William E. Player

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Date: November 30, 2008
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